LAWLER, METZGER & MILKMAN, LLC

2001 K STREET, NW
SUITE 802
WASHINGTON, D.C. 20006

REGINA M. KEENEY

PHONE (202) 777-7700
FACSIMILE (202) 777-7763

September 15, 2003

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: WT Docket No. 02-55
Ex Parte Presentation

Dear Ms. Dortch:

On Friday, September 12, 2003, Lawrence Krevor, Vice President – Government Affairs, Nextel Communications, Inc. ("Nextel") and I met with John Muleta, Bureau Chief, Wireless Telecommunications Bureau; Catherine Seidel, Deputy Bureau Chief, WTB; David Furth, Associate Bureau Chief, WTB; and D'Wana Terry, Chief, Public Safety and Private Wireless Division, WTB regarding the Commission's above-captioned rulemaking on public safety communications in the 800 MHz band. During our meeting, we discussed the urgent need to adopt the Consensus Plan as a means of resolving CMRS – public safety interference and providing additional spectrum for public safety communications. The facts and arguments discussed are reflected in written comments previously filed by Nextel and the Consensus Parties in this proceeding. Attached to this letter are copies of handouts provided to WTB staff at the meeting, including (i) a slide presentation detailing the broad support for and compelling benefits of the Consensus Plan, and (ii) an August 18, 2003 Washington Post article describing the growing public safety interference problem, along with an August 26 letter to the Post expressing support for the Consensus Plan solution.

Pursuant to section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), this letter and these attachments are being filed electronically for inclusion in the public record of the above-referenced proceeding.

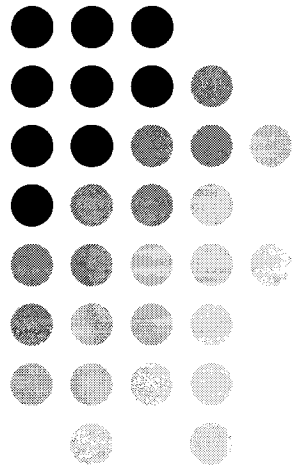
Sincerely,

/s/ Regina M. Keeney
Regina M. Keeney

cc: John Muleta
Catherine Seidel
David Furth
D'Wana Terry

The Consensus Plan

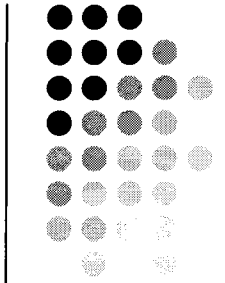
Promoting Homeland Security by Resolving 800 MHz Interference and Allocating More Spectrum to Public Safety



WT Docket No. 02-55

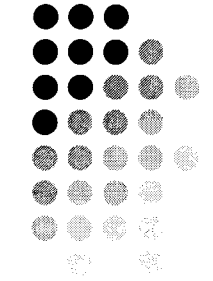
September 12, 2003

Overview



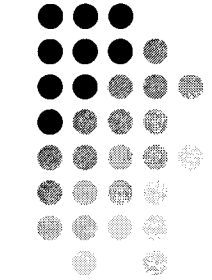
- Broad Support for the Consensus Plan
- Public Safety Interference: a Serious and Growing Problem
- The Consensus Plan: the Only Effective Solution
- Band Realignment: Consistent with FCC Policy and Supported by Other Parties

The Consensus Parties – Representing 90% of 800 MHz Land Mobile Radio Band Licensees



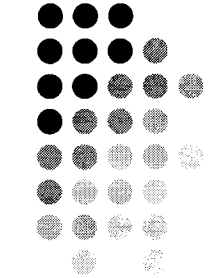
- *Every* Major Public Safety Organization
  - *APCO*
  - *Int'l Assn of Chiefs of Police*
  - *Int'l Assn of Fire Chiefs*
  - *IMSA*
  - *Major Cities Chiefs Assn*
  - *Major County Sheriffs' Assn*
  - *Nat'l Sheriffs' Assn*
- Private Wireless & CMRS
  - *ARINC*
  - *AMTA*
  - *Assn of American Railroads*
  - *American Petroleum Instit.*
  - *Forest Industries Telecom.*
  - *ITA*
  - *PCIA*
  - *Taxicab, Limousine & Paratransit Assn*
  - *Nat'l Stone, Sand & Gravel Assn*
  - *Nextel*

Other Public Safety & Local Gov't Support for the Consensus Plan



- *Nat'l Assn of Counties*
- *NATOA*
- *Nat'l League of Cities*
- *U.S. Conf. of Mayors*
- *NPSTC*
- *Amer. Assn of State Hwy & Transportation Officials*
- *Forestry Conservation Comm. Assn*
- *Int'l Assn of Emergency Managers*
- *Nat'l Assn of State Foresters*
- *Ogden City, Utah*
- *City of Ft. Lauderdale*
- *Orange County, FL*
- *Orange County, CA*
- *City and County of Denver*
- *City of Salem, Oregon*
- *King County Regional Comm. Board*
- *Contra Costa County Fire Protection District*
- *City of Columbus, OH, Dep't of Public Safety*
- *Hamilton County, OH*
- *North Myrtle Beach, SC*
- *Jones County Emerg Oper Ctr, Laurel, MS*
- *Pickaway County, OH*

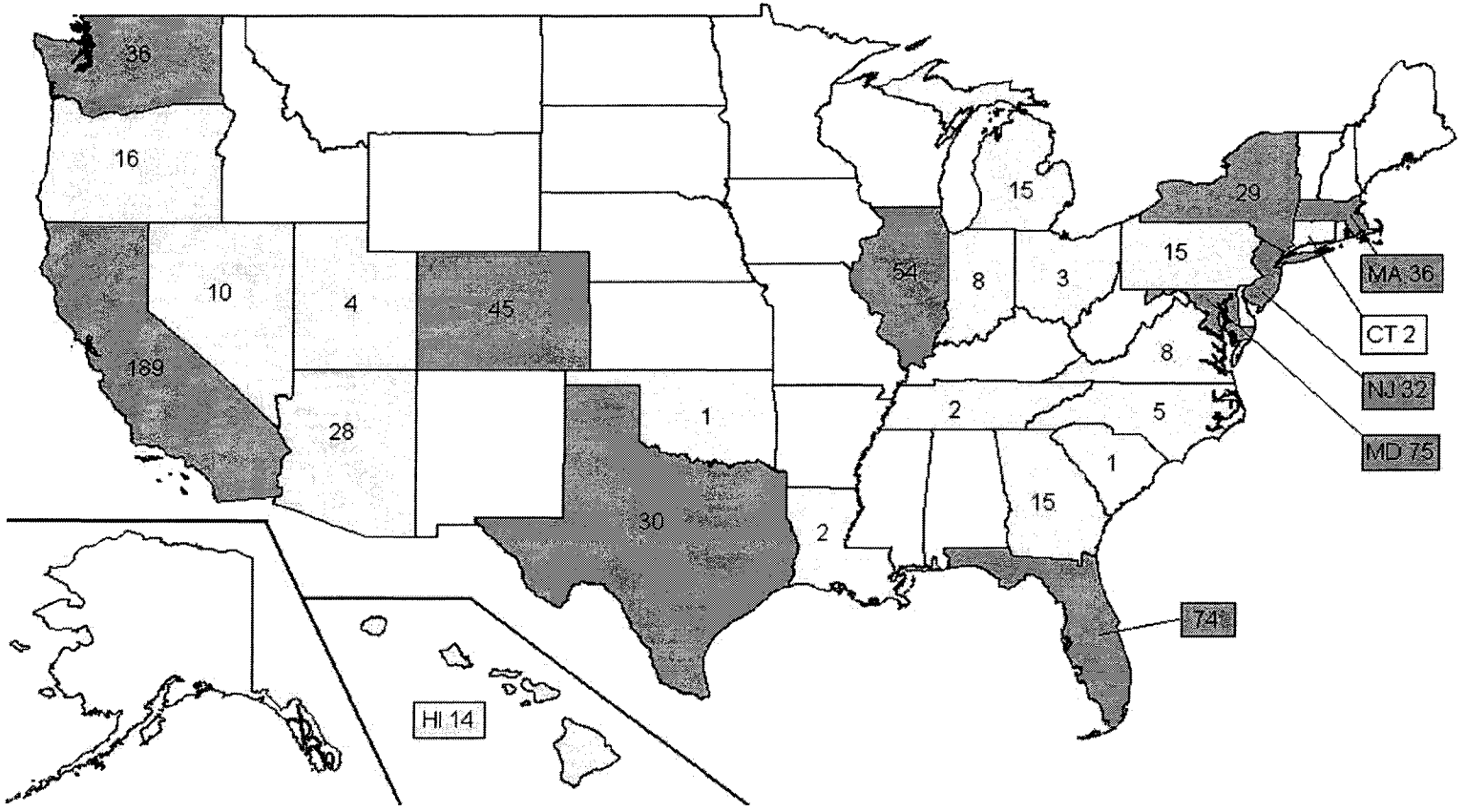
Private Wireless and Manufacturer Support for the Consensus Plan



Lucent	*Columbia Communications*	*Ka-Comm*
Intel	*Graybill Electronics*	*KLL Wireless*
Federal Express	*Highland Wireless Services*	*New York Communications*
Northwest Airlines	*Miller Communications*	*North Sight Communications*
United Airlines	*Monroe Communications*	*Pete's Communications*
IE Communications	*Ohio Valley 2-Way Radio*	*SR Communications Associates*
Motient	*P&R Communications Service*	*Ragan Communications*
RACOM	*Radio Service Company*	*Skyline Communications*
RA-Comm	*Sutter Buttes Communications*	*Smartlink Communications*
Skitronics	*Wells Communications Service*	*Blue Mountain Communications*
Action Communications	*Bell Interconnect*	*Business Radio, Inc.*
Apache Corp.	*Commtronics of Virginia*	*G&P Communications*
Battles Communication	*Comm. & Indus. Electr. Corp.*	*Business Communications Corp*
Telecomunications NA, BP	*CNY, Inc.*	*Coastal Electronics*
BearCom	*JPJ Electronic Communications*	

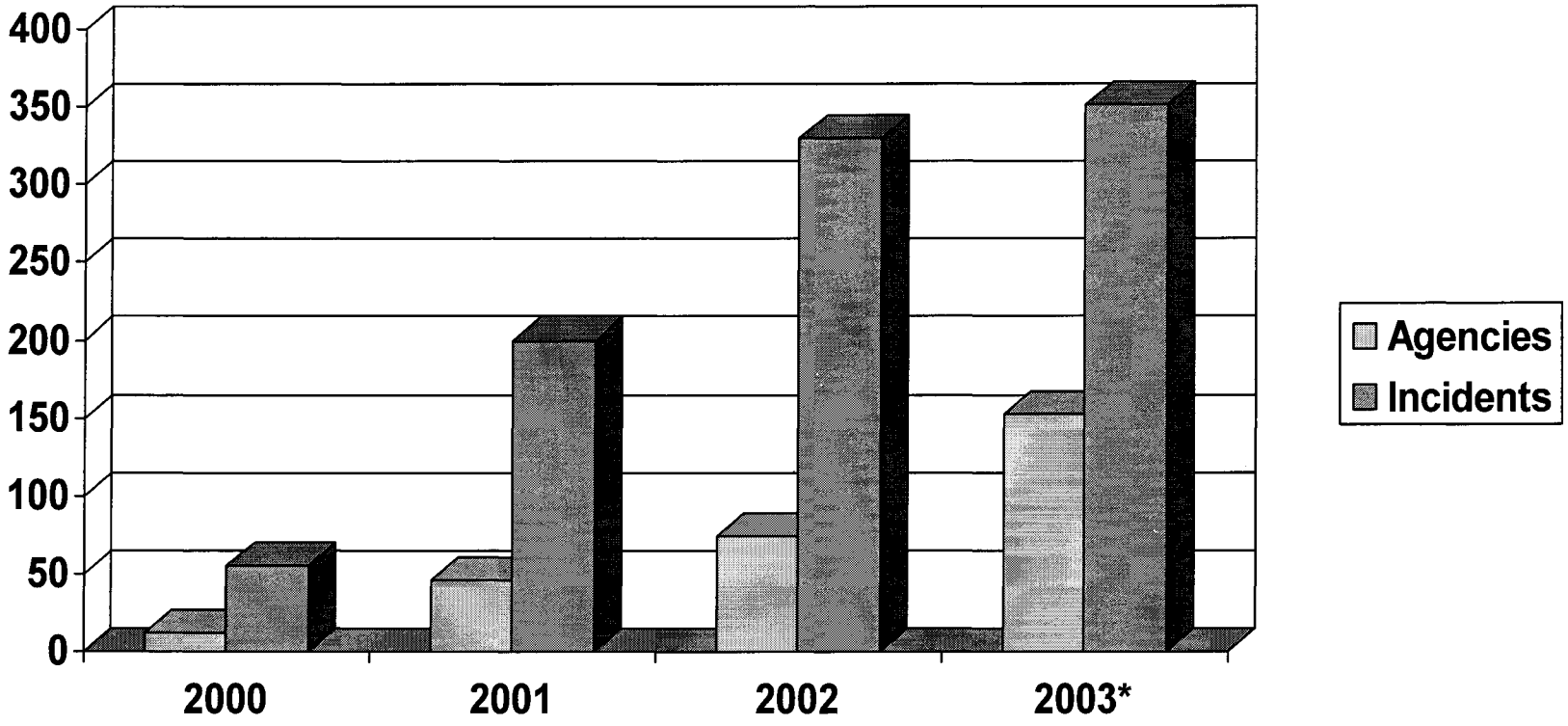
800 MHz Interference – A Nationwide Threat to Public Safety

Figure 1
Incidents of CMRS-Public Safety Interference by State



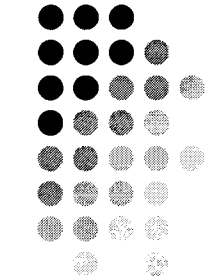
Public Safety Interference: Increasing at an Alarming Rate

- 800 MHz interference has affected 400,000 public safety radios
- 10% of all public safety systems have reported interference to date



*Projected estimate based on number of interference incidents and number of public safety agencies reporting Interference, Jan. 1, 2003 – April 30, 2003

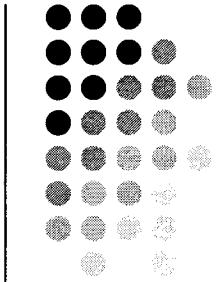
The Current NPSPAC Block: A Disaster Waiting to Happen



- NPSPAC channels are currently sandwiched between Cellular A Block & Nextel Upper 200 SMR channels

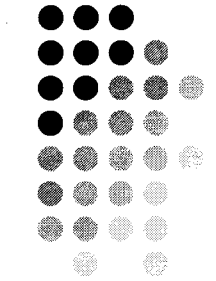
- Without realignment, interference to NPSPAC systems will grow increasingly severe as:
  - Many more NPSPAC systems come on line
  - Cellular A block carriers convert from analog to wideband digital systems as now permitted by FCC
  - Nextel considers deploying wideband digital systems

The Consensus Plan – The Only Effective Solution



- Provides more spectrum for public safety
- Virtually eliminates 800 MHz interference
- Fully funded, with no need for government funds
- Ensures that no licensee loses spectrum
- Can be implemented in three years based on comprehensive plan that minimizes disruption to incumbent licensees

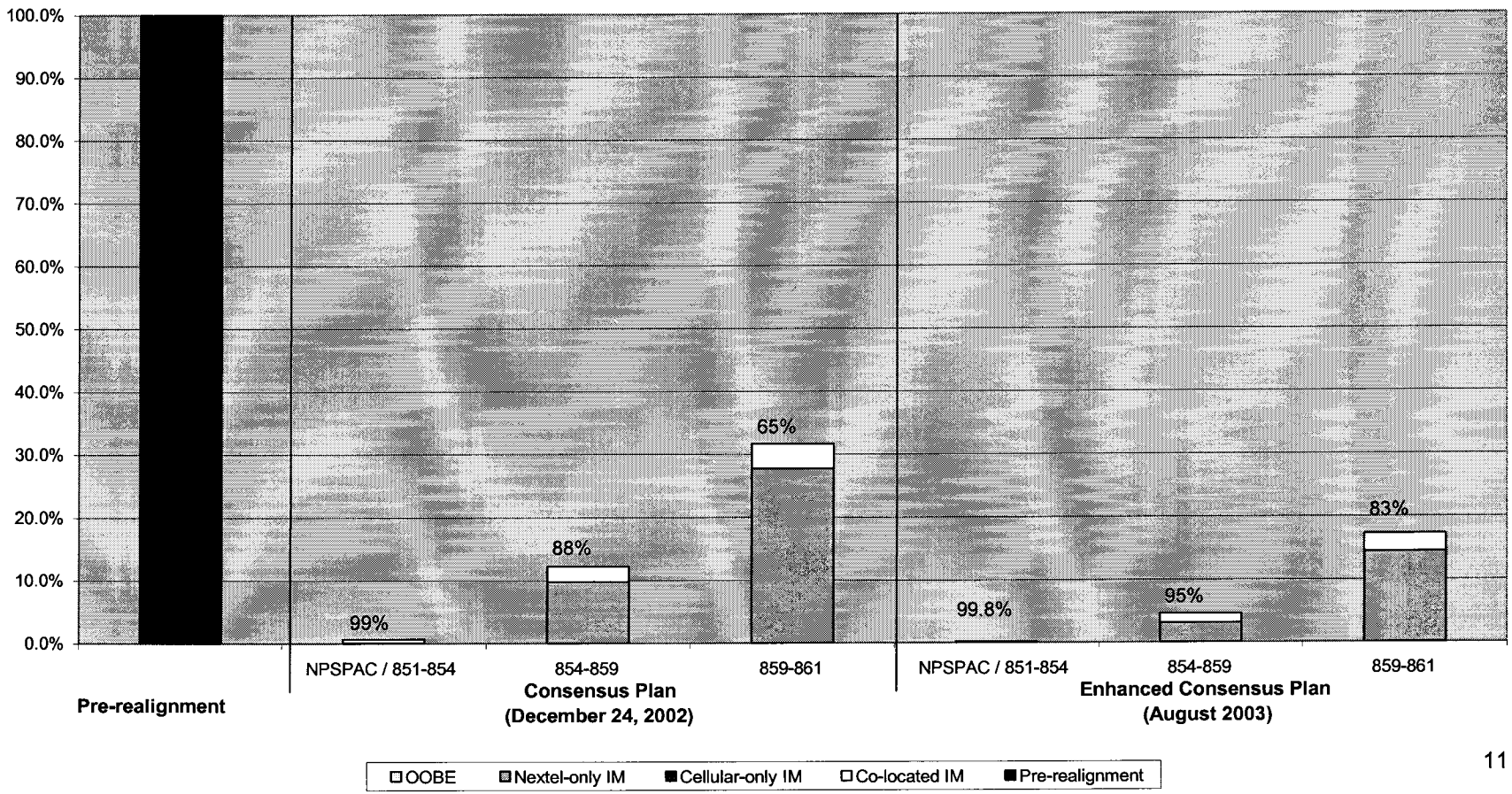
Allocating More Spectrum to Public Safety



- The Consensus Plan is the *only* proposal that allocates additional spectrum to meet critical public safety needs: 2.5+ MHz of spectrum at 800 MHz and 4 MHz of spectrum at 700 MHz

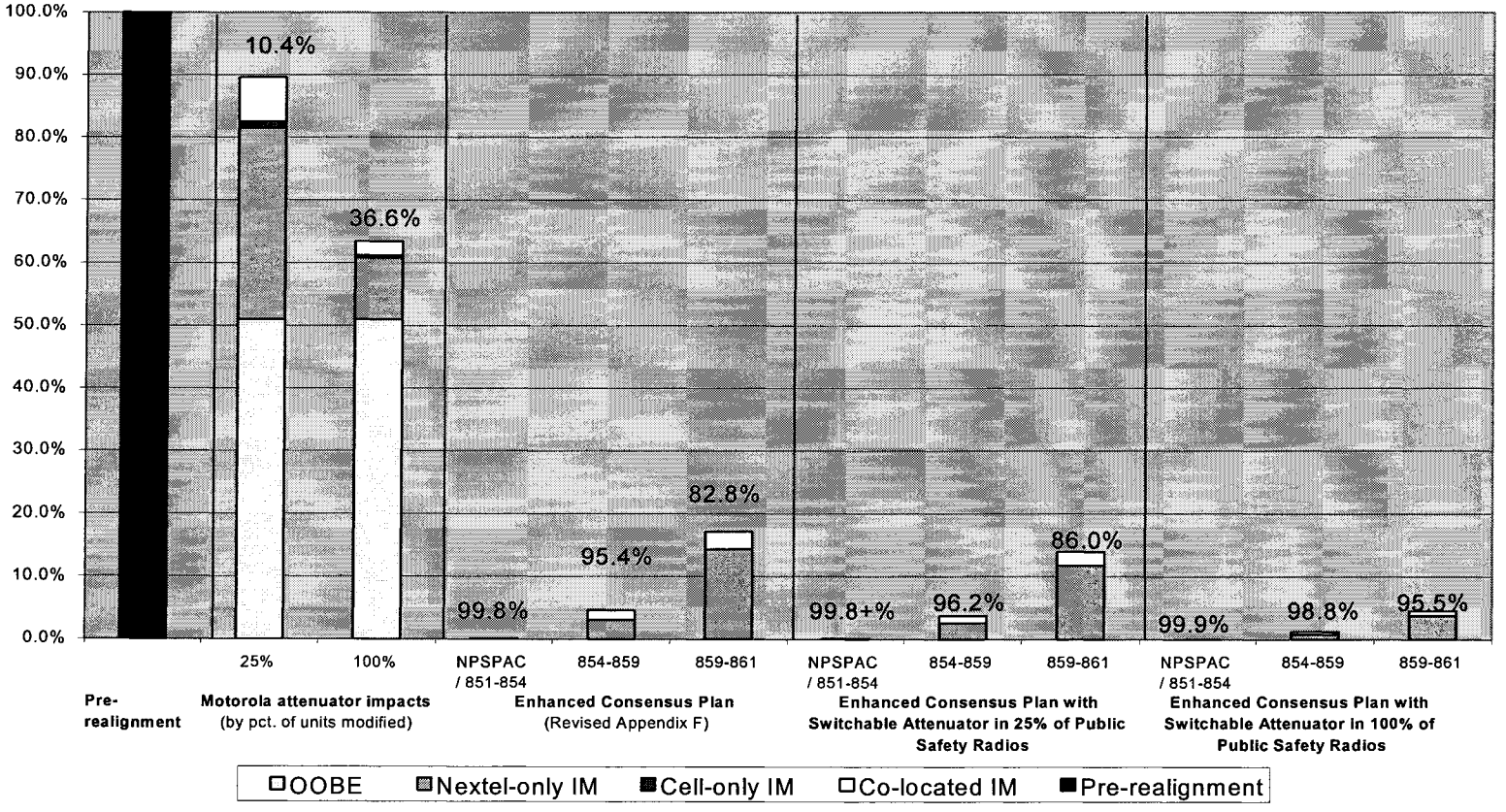
- Benefits of allocating more public safety spectrum in these bands:
  - Propagation characteristics fit public safety wide-area coverage requirements
  - Promotes interoperability and economies of scale

Virtually Eliminating 800 MHz Interference

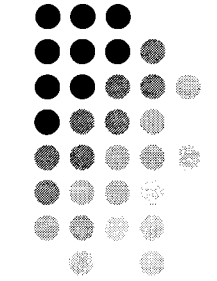


Motorola's Switchable Attenuator: Not a Solution

Figure 2.
The Enhanced Consensus Plan Combined with Motorola's Switchable Attenuator Results in Even Greater Reductions to CMRS-Public Safety Interference

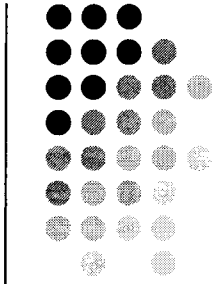


The Consensus Plan: The Only Fully Funded Proposal



- Nextel's $850 million commitment will cover all incumbent relocation costs
  - Based on conservative assumptions
  - Fully supported by a comprehensive review of 800 MHz licensing databases and relocation cost estimates
  - Tested and validated through field visits to 16 representative public safety operations and an APCO data collection survey
  - Supported by public safety and private wireless parties
- An independent administrator will oversee the relocation fund
- Commitment secured by pledge of stock of Nextel entity holding its 1.9 GHz replacement spectrum

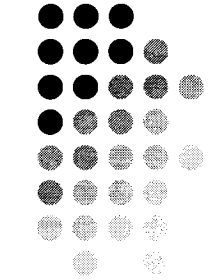
Realignment is Consistent with Established FCC Policy



- *Spectrum Policy Task Force Report*: FCC should make "spectrum policy decisions encouraging like systems or devices to be grouped in spectrum 'neighborhoods' with like systems."

- *700 MHz Guard Band Report and Order*: Finding that cellular systems pose an unacceptable interference risk when operating on channels adjacent to public safety, even when the cellular systems are subject to strict technical rules and frequency coordination requirements

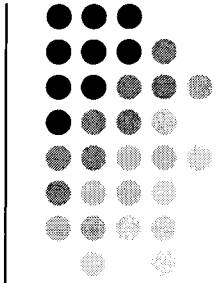
Motorola Has Supported 800 MHz Band Realignment



- The Consensus Plan "would create a friendlier interference environment" and "significantly reduce interference in the 800 MHz band by consolidating public safety use and eliminating the interleaving of CMRS channels with public safety." (June 20, 2003 Letter to FCC)

- "Motorola strongly concurs with those that argue that the root cause of this interference scenario is the basic incompatibility of 'low antenna site' CMRS cellular designs with 'high antenna site' systems used by Public Safety and other private wireless users. Like the majority of commenting parties, Motorola agrees that the key to mitigating this interference is to segregate these two types of system designs by as much frequency spacing as possible, with the highest priority given to protecting public safety users." (Aug. 7, 2002 Reply Comments)

The FCC Should Adopt the Consensus Plan *Now*



- A comprehensive record:
  - Over two years of unsuccessful efforts to remedy the problem using Best Practices
  - *NPRM* issued in March 2002 tentatively concluding that 800 MHz rebanding is necessary
  - *Three* rounds of comments, with nearly 800 submissions amounting to over 11,000 pages
- A need for action: first responders remain at risk, facing a disaster waiting to happen
- The only effective proposed solution: the Consensus Plan

Wireless Growth Hinders Rescuers

FCC Vows to Fix Radio Interference

By Christian Davenport
Washington Post Staff Writer
Monday, August 18, 2003; Page A01

The explosive growth of the mobile phone industry has crowded and tangled the nation's airwaves to such an extent that wireless company signals are increasingly interfering with emergency radio frequencies used by police and firefighters, public safety agencies said.

Emergency departments across the country -- including some in the District, Maryland and Virginia -- report unsettling stories of officers who can't call for backup, dispatchers who can't relay suspect descriptions and firefighters who can't request ambulances because of radio "dead spots" believed to be caused by wireless phone interference.
"Just by the grace of God or good luck, we've been able to avoid a major problem," said Gary Manougian, a police officer in Portland, Ore. "But I don't think we can go on like this indefinitely."

The Federal Communications Commission has vowed to find a solution, even if it has to reorganize a large swath of the radio spectrum -- a massive and controversial task, potentially costing hundreds of millions of dollars and taking years to complete, industry officials said.

FCC Chairman Michael K. Powell said in a speech last week that "it is one of my top priorities . . . to ensure that public safety has the reliable spectrum resources it needs to do its lifesaving work." He warned that solving the problem "may be one of the most challenging spectrum policy proceedings" to come before the agency.

No death or catastrophe has been attributed to such communication problems, said Robert Gurss, director of legal and government relations for the Association of Public Safety Communications Officials International, a nonprofit organization representing emergency communication officials.

But dozens of agencies large and small -- from New York City to Androscoggin County, Maine -- have registered complaints, and one public safety coalition estimates that interference is a problem in at least 27 states.

The issue has its roots in the 1970s, well before the popularity of mobile phones, when the FCC assigned channels in the 800 megahertz band to public safety departments. In the 1980s, wireless companies began to acquire, with federal approval, space adjacent to the emergency radio frequencies. Soon, the wireless phone industry started to grow. Last year, there were an estimated 140 million wireless phone subscribers, the Cellular Telecommunications and Internet Association said.
An increasing number of public safety agencies moved into the 800 megahertz band as well, and as the agencies and wireless companies occupied more spectrum space, airwave conflicts intensified.

Communication officials said many factors cause interference. A common problem arises when a police officer, for example, is close to a wireless phone company transmitter but far from a tower that carries the signals for emergency radios. In that situation, the wireless phone tower overpowers the officer's radio, rendering it useless, the officials said.
To solve the problem, the FCC is considering reshuffling channels in the 800 megahertz band. The idea is to separate the wireless companies from the public safety departments, so they inhabit different ends of the band.

None of the companies is doing anything wrong, FCC officials said. As organized, the spectrum, which is a limited resource, simply can't accommodate everyone.

There are several wireless companies operating in the 800 megahertz band, including Verizon, AT&T Wireless and Cingular, the FCC said. Most of the complaints that the agency has received have been caused by Reston-based Nextel Communications Inc. because many of its band frequencies abut those of emergency radios.

Mindful of the mounting pressure, Nextel has teamed with a broad coalition of partners -- including the Association of Public Safety Communications Officials International and the International Association of Chiefs of Police -- to develop a proposal to reorganize the spectrum, which, if approved, would give Nextel some prime real estate in the airwaves.

Nextel also has offered to pay $850 million for the cost associated with reshuffling the channels if its plan is adopted. The company's proposal is just one of many the FCC is reviewing.

Many communication experts said that a complete reorganization of the spectrum is unnecessary, too expensive and too time-consuming. Meanwhile, public safety officials said the situation is urgent. "If we don't fix this now, it's only going to get worse," Gurss said.

Anne Arundel County police officer Patrick A. Fisher said he ran into the problem one day this spring. The call from his partner that came over the radio was crackled and fuzzy, and Fisher could make out only two words: "start . . . fire." Fisher sensed a tone of urgency in the other officer's voice and rushed to the street he knew his colleague was patrolling.
When he arrived, he saw the other officer futilely fighting a house fire with a garden hose. Fisher reached for his radio, but its reception was too weak until he drove a few blocks away. Finally, firefighters arrived. "If it was another couple of minutes," Fisher said, "the whole side of the house would have been gone."

About two years ago, police officers in Portland were chasing a man after a carjacking attempt when their radios went dead. The man ran through a suburban area, then hid in the woods. About a dozen officers dropped into formation around him. "We were trying to set up a perimeter, but our radios wouldn't work," Manougian said. Some officers had to run into nearby homes to call in information to the dispatcher.

Denver has identified at least 24 dead spots in its communications system, and the police officers know where they are, said Dana Hansen, superintendent of communications for the city's police department. It's particularly troubling, she said, that many of the dead spots happen to be at major intersections where many traffic accidents occur.

When Fairfax County first purchased an 800 megahertz radio system, it had interference problems, said Mernie Fitzgerald, a county spokeswoman. Nextel and Cingular agreed to reconfigure their systems in the county, and they were able to solve the problem, she said. "We haven't had any problems in the last two years," she said.

Montgomery County recently spent $175 million on a communications system that includes an 800 megahertz radio network. The county took care to ensure there wouldn't be any interference problems, said Lt. Dallas Lipp of the county fire and rescue department. The county's system is on a different part of the spectrum than local wireless phone networks, he said, so its system is less susceptible to problems.

"But we're always monitoring how our system is performing," Lipp said.

The District filed an interference complaint last spring with the Association of Public Safety Communications Officials International. Now, having been awarded a $40 million grant from the federal government, the city plans to build seven transmitters and receivers to strengthen its radio system's signal.

Anne Arundel County plans to spend $15 million over five years to build more towers and to update its equipment. And last year, county officials passed a zoning law that required wireless companies to certify that their signals would not interfere with the county's radio system.

Cingular asked the FCC to strike down the ordinance. Last month, the commission did so, saying that the county was trying to regulate the airwaves through its zoning code. The county, which has appealed the FCC's decision, has worked with the companies to reduce the interference. The effort appears to be working: The number of known dead spots has dropped from more than 60 to about 20, county officials said. Still, they said, 20 is too many.

Meantime, Fisher said many colleagues on the Anne Arundel County police force have found their own solution: They carry cell phones in case their radios go dead.

washingtonpost.com

Interfering With Public Safety

Tuesday, August 26, 2003; Page A12

The Aug. 18 front-page article "Wireless Growth Hinders Rescuers" highlighted the dangerous problem of public safety radio interference for the men and women who protect our communities.

I have spent more than 25 years in emergency management and have responded to hundreds of disasters on the local, state, national and international levels. I often have encountered the problem of first responders being unable to communicate reliably.

A plan with broad-based support is before the Federal Communications Commission. It provides more spectrum for public safety communications, and it has the backing of 90 percent of those affected -- including the International Association of Chiefs of Police, the International Association of Fire Chiefs and the Association of Public-Safety Communications Officials. One major benefit of this plan is that no taxpayer funding is needed -- it is fully funded and comprehensive. Alternative proposals, which offer no funding, promote measures that have been ineffective in solving this important problem.

Of all the powerful natural or man-made forces I've confronted in my work -- fires, floods, bombings and earthquakes -- inertia ranks right up there. It is time for the United States to support its first responders and provide them with a solution to improve communications.

JAMES LEE WITT

Washington

The writer, director of the Federal Emergency Management Agency during the Clinton administration, is a consultant for Nextel Communications Inc.